

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

ROBINSON *et al.*

Appl. No.: 10/040,945

Filed: January 9, 2002

For: **Modular Assembly of Antibody  
Genes, Antibodies Prepared  
Thereby and Use**

Confirmation No.: 5282

Art Unit: 1642

Examiner: Blanchard, David J.

Atty. Docket: 0610.005000I/MAC

**Second Supplemental Information Disclosure Statement  
under 37 C.F.R. § 1.97(c)**

*Mail Stop Amendment*

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98. The numbering on this Second Supplemental Information Disclosure Statement is a continuation of the numbering in Applicants' First Supplemental Information Disclosure Statement filed on August 29, 2002 in connection with the above-captioned application. Copies of documents **AR56** to **AT62** are submitted. However, in accordance with 37 C.F.R. § 1.98(a)(2), no copies of U.S. patents and patent application publications cited on the attached Form PTO-1449 are submitted.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection, or Notice of Allowance, or an action that otherwise closes prosecution in the application. Attached is our PTO-2038 Credit Card Payment Form in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).

It is respectfully requested that the Examiner initial and return a copy of the enclosed Form PTO-1449, and indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

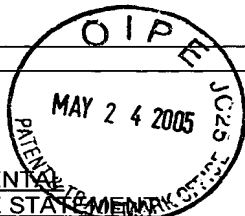
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Michele A. Cimbala  
Attorney for Applicants  
Registration No. 33,851

Date: *May 24, 2005*

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FORM PTO-1449

ATTY. DOCKET NO.

0610.0050001

APPLICATION NO.

10/040,945

FIRST NAMED INVENTOR

Robinson *et al.*

FILING DATE

January 9, 2002

ART UNIT

1642

SECOND SUPPLEMENTAL  
INFORMATION DISCLOSURE STATEMENT

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
	AA						
	AB						
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	AG3	5,028,530	07/02/1991	Lai <i>et al.</i>	435	69.1	02/05/1990
	AH3	6,057,098	05/02/2000	Buechler <i>et al.</i>	435	6	04/04/1997
	AI						
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	AK						

## FOREIGN PATENT DOCUMENTS

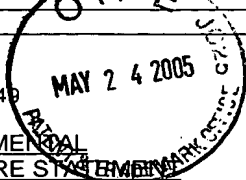
EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB-CLASS	TRANSLATION
	AL						Yes No
	AM						Yes No
	AN						Yes No
	AO						Yes No
	AP						Yes No

## OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>56</u>	Court Docket, United States District Court Northern District of California San Francisco Division, filed Sept. 30, 2002, pp. 1-12
	AS	<u>56</u>	Stipulation and Order Entering Consent Judgment, United States District Court Northern District of California San Francisco Division, filed Sept. 10, 2002, pp. 1-2
	AT	<u>56</u>	Joint Claim Construction and Prehearing Statement Pursuant to Patent Local Rule 4-3, United States District Court Northern District of California San Francisco Division, filed June 28, 2002, pp. 1-82

EXAMINER	DATE CONSIDERED
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**EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

Page 2 of 7							
FORM PTO-1449 SECOND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT	<div style="text-align: center;">  </div> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">ATTY. DOCKET NO. 0610.0050001</td> <td style="width: 50%;">APPLICATION NO. 10/040,945</td> </tr> <tr> <td colspan="2">FIRST NAMED INVENTOR Robinson <i>et al.</i></td> </tr> <tr> <td>FILING DATE January 9, 2002</td> <td>ART UNIT 1642</td> </tr> </table>	ATTY. DOCKET NO. 0610.0050001	APPLICATION NO. 10/040,945	FIRST NAMED INVENTOR Robinson <i>et al.</i>		FILING DATE January 9, 2002	ART UNIT 1642
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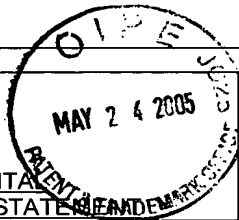
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	AM						Yes No
	AN						Yes No
	AO						Yes No
	AP						Yes No

### OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>57</u>	Exhibit 1 - Xoma's Preliminary Claims Construction Statement, Joint Claim Construction and Prehearing Statement Pursuant to Patent Local Rule 4-3, United States District Court Northern District of California San Francisco Division, filed June 28, 2002, pp. 1-48
	AS	<u>57</u>	Exhibit 2 - Summary of Statement to be Offered by Dr. Richard A. Lerner. M.D., Joint Claim Construction and Prehearing Statement Pursuant to Patent Local Rule 4-3, California Northern District (San Francisco), June 28, 2002
	AT	<u>57</u>	Exhibit 3 - Summary of Opinions to be Offered by Dr. Dennis R. Burton, Ph.D., Joint Claim Construction and Prehearing Statement Pursuant to Patent Local Rule 4-3, California Northern District (San Francisco), June 28, 2002

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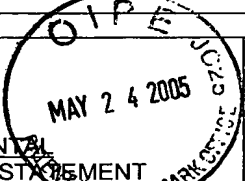
## OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>58</u>	Biosite Incorporated's Preliminary Invalidity Contentions, United States District Court Northern District of California San Francisco Division, pp. 1-90
	AS	<u>58</u>	Revised Joint Claim Construction and Prehearing Statement Pursuant to Patent Local Rule 4-3, United States District Court Northern District of California San Francisco Division, filed July 17, 2002, pp. 1-15
	AT	<u>58</u>	Exhibit A - Xoma's and Biosite's Proposed Constructions of the Disputed Claim Terms With Supporting Evidence, United States District Court Northern District of California San Francisco Division, filed July 17, 2002, pp. 1-37

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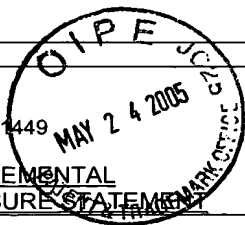
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### OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>59</u>	Exhibit B - Summary Opinion to be Offered by Dr. Richard Lerner. M.D., United States District Court Northern District of California San Francisco Division, filed July 17, 2002
	AS	<u>59</u>	Exhibit C - Summary of Opinions to be Offered by Dr. Dennis R. Burton, Ph.D., United States District Court Northern District of California San Francisco Division, filed July 17, 2002
	AT	<u>59</u>	Exhibit D - Summary of Opinions to be Offered by Dr. William Wickner, United States District Court Northern District of California San Francisco Division, filed July 17, 2002

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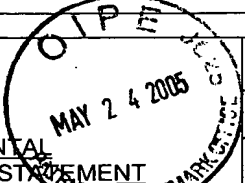
## OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>60</u>	Exhibit E - Summary of Opinions to be Offered by Dr. Gregg Silverman, United States District Court Northern District of California San Francisco Division, filed July 17, 2002
	AS	<u>60</u>	Second Amendment and Supplemental Complaint for: 1. Fraud/Misrepresentation; 2. Breach of Contract; 3. Patent Infringement; 4. Misappropriation; 5. Unfair Business Practices; 6. Breach of Confidence. United States District Court Northern District of California San Francisco Division, filed June 4, 2002, pp. 1-49
	AT	<u>60</u>	Exhibit A - U.S. Pat. No. 5,028,530, Second Amendment and Supplemental Complaint for: 1. Fraud/Misrepresentation; 2. Breach of Contract; 3. Patent Infringement; 4. Misappropriation; 5. Unfair Business Practices; 6. Breach of Confidence. United States District Court Northern District of California San Francisco Division, filed June 4, 2002

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	AP						Yes No

OTHER (Including Author, Title, Date, Pertinent Pages, etc.)			
	AR	<u>61</u>	Exhibit B - U.S. Pat. No. 5,576,195, Second Amendment and Supplemental Complaint for: 1. Fraud/Misrepresentation; 2. Breach of Contract; 3. Patent Infringement; 4. Misappropriation; 5. Unfair Business Practices; 6. Breach of Confidence. United States District Court Northern District of California San Francisco Division, filed June 4, 2002
	AS	<u>61</u>	Exhibit C - U.S. Pat. No. 5,698,417, Second Amendment and Supplemental Complaint for: 1. Fraud/Misrepresentation; 2. Breach of Contract; 3. Patent Infringement; 4. Misappropriation; 5. Unfair Business Practices; 6. Breach of Confidence. United States District Court Northern District of California San Francisco Division, filed June 4, 2002
	AT	<u>61</u>	Exhibit D - U.S. Pat. No. 5,846,818, Second Amendment and Supplemental Complaint for: 1. Fraud/Misrepresentation; 2. Breach of Contract; 3. Patent Infringement; 4. Misappropriation; 5. Unfair Business Practices; 6. Breach of Confidence. United States District Court Northern District of California San Francisco Division, filed June 4, 2002.

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	AN						Yes No
	AO						Yes No
	AP						Yes No

## OTHER (Including Author, Title, Date, Pertinent Pages, etc.)

	AR	<u>62</u>	Exhibit E - U.S. Pat. No. 6,204,023, Second Amendment and Supplemental Complaint for: 1. Fraud/Misrepresentation; 2. Breach of Contract; 3. Patent Infringement; 4. Misappropriation; 5. Unfair Business Practices; 6. Breach of Confidence. United States District Court Northern District of California San Francisco Division, filed June 4, 2002
	AS	<u>62</u>	Exhibit F - U.S. Pat. No. 6,057,098, Second Amendment and Supplemental Complaint for: 1. Fraud/Misrepresentation; 2. Breach of Contract; 3. Patent Infringement; 4. Misappropriation; 5. Unfair Business Practices; 6. Breach of Confidence. United States District Court Northern District of California San Francisco Division, filed June 4, 2002
	AT	<u>62</u>	Answer of Biosite Incorporated to Plaintiffs' Second Amended and Supplemental Complaint, United States District Court Northern District of California San Francisco Division

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